IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 3494 of 1991

M/s. Kanoria Steels .. Petitioners
V/s.
Union of India and others .. Respondents

WITH
Writ Petition No. 3551 of 1991

M/s. Konkan Steel Ltd. .. Petitioners
V/s.
Union of India and others .. Respondents

Mr. D.A. Nalavade for the Petitioners.
Mr. P.S. Jetly for the Respondents.

CORAM : S. RADHAKRISHNAN &
A.S. AGUIAR, JJ.
DATED : 08.06.2005.

P.C.:-

1. Heard the learned counsel for the Petitioners and the learned counsel for the Respondents. The learned counsel for the Petitioners brought to our notice that in fact these Petitions ought to have been heard alongwith Writ Petition No. 101 of 1990, Writ Petition No. 3034 of 1991 and Writ Petition No. 3033 of 1991 on the Original Side, however, due to inadvertence when the matters were taken up for final hearing on 12.2.2004, the present matters were not listed alongwith the same.

2. Shri Nalavade, the learned counsel appearing on behalf of the Petitioners produced before us a copy of the judgment of the Division Bench dated 12.2.2004 passed in the aforesaid three Writ Petitions, namely Writ Petition No. 101 of 1990, Writ Petition No. 3034 of 1991 and Writ Petition No. 3033 of 1991. In the

aforesaid judgment, the Court was considering the issue

whether MODVAT credit should be granted with regard to the Refractories, Ramming mass, Ramming Mix and foundry chemicals. Even in the present Petition, the very issue is whether MODVAT credit ought to be granted under rule 57-A of the Central Excise Rules and even in the present case the Petitioners are claiming MODVAT credit with regard to the same Refractories, Ramming mass and Ramming mix.

3. In the aforesaid judgment of the Division Bench dated 12.2.2004, the Division Bench has referred to various judgments of various High Courts and Supreme Court and has held that the Petitioners therein were entitled to such MODVAT credit and the Petitions were made absolute. In view of the aforesaid judgment of the Division Bench, in the said Petitions, Rule is made absolute in terms of prayer clause (a) and (b), however, with no order as to costs. Issuance of Certified Copy expedited.

(S. RADHAKRISHNAN, J.)

(A.S. AGUIAR, J.)